

ARGUMENTS

Claims 1 and 25-47 are pending. No claims stand allowed.

New claims 48-49 have been added by this amendment and also particularly point out and distinctly claim subject matter regarded as the invention. Claims 48-49 are means-plus-function claims corresponding to method claims 39-40.

Claims 25-47 were not mentioned in the Office Action¹. The originally filed application included claims 1-24. Claims 2-24 were cancelled without prejudice or disclaimer in a first preliminary amendment filed on June 10, 1999. Claims 25-47 were added in a second preliminary amendment filed on January 12, 2000. Copies of both preliminary amendments and the respective filing receipts are attached to this paper. The Examiner is reminded that in every letter each claim should be mentioned by number, and its treatment or status given.² It is respectfully requested that claims 25-47 be allowed.

The 35 U.S.C. § 103 Rejection

Claims 1-24 stand rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over the Admitted Prior Art, background of application (APA) in view of de Jong^{3,4}. This rejection is respectfully traversed.

According to the Manual of Patent Examining Procedure (M.P.E.P.),

¹ Office Action dated August 22, 2002.

² M.P.E.P § 707.07(i).

³ U.S. Patent 5,802,519.

⁴ Office Action ¶ 3.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in the applicant's disclosure.⁵

Claim 1

Claim 1 recites:

A small footprint device comprising:

- a. at least one processing element;
- b. memory,
- c. a context barrier, for isolating program modules from one another using said memory and said processing element, and
- d. one context having access to all program modules without context barrier constraints.

The Office Action states:

The APA teaches a small footprint device (smart cards) comprising:

- a. at least one processing element (processor)
- b. memory (memory typically found on a smart card)
- c. a context barrier (name space) for isolating program modules from one another using said memory and said processing element (multiple execution contexts ... provides a way to separate or isolate different program modules). The APA does not explicitly disclose the additional limitations detailed below. De Jong teaches a data exchange system for smart cards and one context (interaction context, p12 51-55) having access to all program modules without context barrier constraints (open any of the other applications, Id.). It would have been obvious to combine De Jong's teachings with the APA because the context mechanism defined by De Jong (p6 23-25) "leads to a wider range of smart card use" and, thus provides more features/services for users.⁶

The Applicants respectfully disagree. The Examiner has not shown where the cited reference discloses "... one context having access to all program modules *without context barrier constraints*." Nor has the Examiner shown that a context having access to all program

⁵ M.P.E.P § 2143.

modules by necessity requires access without context barrier constraints. The Examiner is reminded that the mere absence from a reference of an explicit requirement of a claim cannot be reasonably construed as an affirmative statement that the requirement is in the reference.⁷ For this reason, the 35 U.S.C. § 103 rejection is unsupported by the art. Thus, no prima facie case of obviousness has been established and the 35 U.S.C. § 103 rejection should be withdrawn.

Claims 2-24

As mentioned above, claims 2-24 were cancelled without prejudice or disclaimer in a first preliminary amendment filed on June 10, 1999. The 35 U.S.C. § 103(a) rejection as to claims 2-24 is therefore moot.

In view of the foregoing, it is respectfully asserted that the claims are now in condition for allowance.

Request for Allowance

It is believed that this Amendment places the above-identified patent application into condition for allowance. Early favorable consideration of this Amendment is earnestly solicited.

If, in the opinion of the Examiner, an interview would expedite the prosecution of this application, the Examiner is invited to call the undersigned attorney at the number indicated below. The Commissioner is hereby authorized to charge any additional fees or credit any

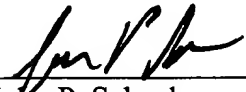
⁶ Office Action ¶ 3.

⁷ *In re Evanega*, 829 F.2d 1110, 4 USPQ2d 1249 (Fed. Cir. 1987).

overpayment to Deposit Account No. 50-1698.

Respectfully submitted,
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